

JACOB ARONAUER, ESQ.
Law Offices of Jacob Aronauer
225 Broadway, 3rd Floor
New York, New York 10007
(212) 323-6980
jaronauer@aronauerlaw.com

June 20, 2018

Via ECF

Hon. Dora Lizette Irizarry
United States District Court for the
Eastern District of New York
225 Cadman Plaza East, 505 North
Brooklyn, New York 11201

Re.: *Gustavo Santos v. ET & K Foods, Inc., et al.*,
16-cv-7107 (DLI)(VMS)

Dear Judge Irizarry:

On August 7, 2017, this office requested leave to make a motion for an evidentiary hearing with respect to a) whether a backdoor settlement in violation of *Cheeks* had occurred between the parties, and b) whether Plaintiff's counsel should receive attorney fees under New York Judiciary law § 475. *See* dkt 43. At the time I wrote the letter to the Court, I believed that Defendants would contest whether a settlement had been reached by the parties. Defendants' counsel, Mr. Eric Raphan, though, acknowledged that a settlement had been reached. *See* dkt 044. Accordingly, I do not believe that an evidentiary hearing is necessary and, *without prejudice*, withdraw my request.

As the Court is aware, today I filed a motion for sanctions against both Defendants and their counsel, Mr. Eric Raphan. I believe that my application for sanctions is the most efficient way for the Court and the parties to resolve the fact that Defendants settled the case without Court approval and in violation of *Cheeks v. Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015). As the Court is aware, per Your Honor's individual rules, I do not need to seek the Court's permission prior to moving for sanctions.

In light of the above, I request to adjourn the conference scheduled for tomorrow, June 21, 2018. I recognize the request to adjourn the conference for tomorrow has not been made at least two business days prior to the request as required by Your Honor's individual rules. I apologize deeply for failing to meet the Court's individual rules but I wanted to make sure that my sanctions motion was completed prior to filing the application. It is my first request to adjourn the conference.

Mr. Raphan, attorney for Defendants, opposes my request.

Respectfully,

/s Jacob Aronauer

Jacob Aronauer

cc: **By ECF**

All attorneys on record